

Education Justice Program

Advancing education equity and racial justice for all children.

KNOW YOUR RIGHTS: THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

The Family Educational Rights and Privacy Act (“FERPA”) is a federal law that protects the privacy of students’ education records and other rights. FERPA empowers students and parents with certain rights and requires schools to take certain steps before disclosing student records. FERPA protects “educational records”—any records, files, documents, and other materials that contain information that directly relates to the student that a school maintains.

FERPA only applies to schools that receive funding from the U.S. Department of Education. This means that all public schools, including public charter schools in Missouri, must comply with FERPA. Most private and/or religious elementary and high schools do not have to comply with FERPA.

FERPA Rights for Parents and Students

FERPA gives parents control over their children’s education records. Under FERPA, a person is a “parent” if they are the biological or adoptive parent of the student, the student’s guardian, or an individual acting as the student’s parent in the absence of a parent or guardian. When a student turns 18 years old (or when that student attends a college or university) that student becomes an “eligible student” and all FERPA rights previously held by the parent transfer to the student. This means that the student must act in response to FERPA violations—not the parent. The following are FERPA rights which parents and eligible students can utilize:

Access to Education Records

Parents and eligible students have the right to look over the any education records maintained by the school. Therefore, if a parent or eligible student requests to access education records, the school must allow the parent or student an opportunity to review the records within 45 days of the request. If the school fails to do so, it is a violation of FERPA. The school must only provide a copy of the requested records or make other arrangements if circumstances effectively prevent parents or eligible students from exercising the right to review.

Amendment of Education Records

If an education record contains an error or an incorrect statement, parents and eligible students have the right to seek an amendment to the record. This does not mean that the school is required to make the change. But the school must take these following steps:

- (1) The school must **consider the requested amendment** and decide whether to implement the change in the record.
- (2) The school must **inform the parent or eligible student of its decision** whether or not to implement the amendment.
- (3) If the school decides not to implement the amendment, the school must **advise the parent or eligible student of their right to a hearing** regarding the request.
- (4) If requested, the **hearing must be held within a reasonable amount of time** and the school must **give notice** of the date, time, and place reasonably in advance of the hearing. The parent or eligible student may, at their own expense, be assisted or represented by individuals of their choice, including an attorney.

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- (5) After the hearing: If the school decides the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall **amend the record accordingly** and **inform** the parent or eligible student in writing. If the school refuses to implement the amendment, the school must inform the parent or eligible student of their right to **insert a statement into the record** challenging the information. This statement must remain in the record and must be included whenever the records are distributed to third parties.

The right to amend is limited. FERPA *does not* allow parents or eligible students to challenge “substantive” information such as grades, opinions and evaluations concerning the student, and records of decisions made about the student.

Disclosure of Education Records

Lastly, under FERPA a school cannot disclose any “personally identifiable information” (“PII”) about the student to third parties without first obtaining **written consent** from the parent or eligible student. If a school provides someone who is neither the school nor the student/parent with PII on the student without first obtaining written consent, it violates FERPA. However, there are exceptions allowing schools to disclose PII about a student. The most notable exceptions include but are not limited to:

- **Directory Information:** Schools may disclose directory information without consent if the school has announced what types of information it classifies as “directory information.” Schools must also give parents and eligible students a reasonable amount of time to **opt-out** of disclosing directory information. While “directory information” may vary by school, it generally includes information such as: a student’s name, address, email address, photograph, date and place of birth, etc.
- **School Officials:** School officials may access PII in education records so long as those officials have a “legitimate educational interest” in the information. The definition of “school official” and “legitimate educational interest” varies by school.
- **Dependent Students:** If a parent has claimed a student as a dependent on their most recent income tax return, a school may disclose the student’s PII to the parent without consent from the student, regardless of whether the student is “eligible.”
- **Schools in which the Student Seeks to Enroll:** If a student seeks to enroll or transfer to a different school, the student’s original school may disclose PII to the new school without consent. However, the school must reasonably attempt to inform of disclosure.

School Requirements

Under FERPA, schools are required to notify parents and eligible students of their FERPA rights annually. This notification **must** describe the right to review and amend education records, seek amendment of inaccurate or misleading education records, consent to PII disclosures, and file a complaint against the school for alleged violations. To find the announcement you may need to check the school’s website, newspaper, handbook, or calendar.

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FERPA Complaint Guidelines

If you believe that your FERPA rights have been violated, you may file a FERPA complaint with the U.S. Department of Education’s Student Privacy Policy Office. The Student Privacy Policy Office website is <https://studentprivacy.ed.gov/about>. On the website, press the “File a Complaint” button in the upper right-hand corner. Then, you will see a page with video resources and information explaining the complaint process. The FERPA complaint form and instructions are at the bottom of the page. The form is also accessible here: https://studentprivacy.ed.gov/sites/default/files/resource_document/file/EComplaint%20form%20FERPA_Updated_508_013123.pdf. Alternatively, you may call 202-260-3887 to request a complaint form.

Complaints must meet these three criteria:

- (1) It must be filed by the **person with FERPA rights** in order to be valid. This will either be the parent of a student (if the student is not eligible) or an eligible student (any student over 18 or attending a higher education institution).
- (2) You must file the complaint **within 180 days** of the date the eligible student or parent knew, or should have known, their FERPA rights may have been violated. Otherwise, the Student Privacy Policy Office will not investigate.
- (3) The complaint must **describe the events that actually occurred in detail**. It should not *solely* consist of conclusory statements like “the school violated their FERPA obligations.” You may include documents that support your claim, but *only* attach documents that are directly relevant to your claims—otherwise the Student Privacy Policy Office may have difficulty processing your complaint.

Information to Include in Complaints

Access to Education Records Complaints	Amendment of Education Record Complaints	Consent to Disclosure Complaints
Education record(s) requested; school’s maintenance of record (if known); date(s) and means of request; name and position of official(s) contacted; school’s response.	Description of education record(s); information to be corrected and specific correction requested; reason you believe information is misleading; date of request; name and position of official(s) contacted; school’s response; result of any hearing held.	Description of disclosed record(s) or PII, with dates (if known); whether information was disclosed in education records; name and position of official(s) contacted; circumstances of disclosure; how and when you discovered disclosure; description of communication with disclosing individual.